



AZ POST
INTEGRITY BULLETIN
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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **December 2005 through February 2006**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

December 2005 through February 2006

CASE NO. 1

THEFT

Officer A became a peace officer in 1992. While working in 1994, he found approximately \$140.00 at the scene of a traffic accident. He pocketed the money and kept it for personal gain. Ten years later, while in an application process for another agency, he admitted what he had done and AZ POST discovered it during an audit of his new hire file. The matter went to a hearing before an independent Administrative Law Judge (ALJ) of the Office of Administrative Hearings. The ALJ found malfeasance in office, conduct that disrupts public trust and the commission of theft under A.R.S. §13-1802(A)(4), "Com[ing] into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriat[ing] such property to the person's own or another's use without reasonable efforts to notify the true owner." Officer A did not turn the money in to "found property" or try to contact the vehicle drivers or owners to see if the money was theirs. The evidence included statements that the officer had otherwise been a very good officer and the new agency wished to keep him on staff. The Board revoked his peace officer certification for theft.

CASE NO. 2

DISHONESTY

Sergeant B supervised an officer who was accused by a citizen of taking a large amount of money that the citizen's son had on his person at the time of his arrest. Sergeant B sent the citizen to the jail to see if the money was in the property. It was not. The citizen later returned and complained about the missing money and about being ignored by Sergeant B. During an internal investigation the sergeant provided contradictory statements about whether the citizen had accused the officer of taking the money or not. It was the sense of the Board that the sergeant was lazy and made dishonest statements to cover up his laziness. None of the untruthful statements occurred after Garrity admonitions were given. The Board suspended Sergeant B's certification for one year for malfeasance in office.

CASE NO. 3**DISHONESTY**

Specialty Officer C was untruthful twice to his supervisor about administrative matters. First, he lied to his supervisor about the reason he arrived late for a new employee orientation. A few weeks later, he lied to his supervisor about damage to his assigned department car. There was no Garrity admonition given and the agency terminated his employment. The Board suspended his certification for 18 months for malfeasance in office.

CASE NO. 4**DISHONESTY**

Officer D falsified his weekly time accounting reports by recording written warnings as citations. He was also untruthful during the internal investigation after Garrity warnings. The Board revoked his certification for malfeasance in office.

CASE NO. 5**UNNECESSARY FORCE**

Officer E was part of an investigation into five Spanish speaking men who had pointed a realistic looking bb gun at a woman and tried to get her into their car. The men were handcuffed and seated on a curb approximately three feet in front of Officer E. He was guarding them while other officers were conducting interviews and collecting evidence. One of the men was laughing and cracking jokes about the situation. When asked why they did it, the man said he thought it would be "fun." Officer E wanted to teach the man a lesson and prove a point, so he pulled his weapon and pointed it in the direction of the laughing man. He said "this is not a joke, this is serious," in Spanish. The man looked surprised, flinched and stopped laughing. Officer E testified that, "ironically, the lesson was not to point guns at people." Officer E had a hearing and presented five character witnesses who testified that this was a one time aberration in an otherwise stellar career. The board first revoked his certification which is a permanent action, but on reconsideration took to heart the mitigating evidence presented and suspended his peace officer certification until lapse. After three years without law enforcement employment, Officer E will be allowed to make application for peace officer work and certification.

CASE NO. 6**THEFT**

Officer F participated in the seizure of 500 pounds of marijuana pursuant to a search warrant. As a kind of "trophy" he brought back for display in his office a metallic art piece in the shape of a skull and cross-bones worth maybe \$14. The Board adopted a consent agreement calling for a one year suspension for malfeasance in office and dismissing the allegation of theft due to mitigation in not committing the piece to personal use and his thinking at the time that the property was worthless and abandoned.

CASE NO. 7**DISHONESTY**

G was having problems keeping up with his reports. His supervisor asked him about a delinquent report and Deputy G said it was complete and in his computer. It was not. Deputy G told his supervisor the truth at a meeting a few days later, prior to the administration of any Garrity warnings. He was truthful during the internal affairs investigation. The Board adopted a consent agreement calling for a three month suspension for malfeasance in office.

CASE NO. 8**DISHONESTY**

Officer H was at a party with a large gathering of people. During the party he became involved in a confrontation in the front yard causing someone to notify the police. Prior to their arrival, someone else fired a handgun into the air to disperse the crowd. Officer H falsely denied any knowledge of the firearm

discharge to responding officers. The Board suspended his peace officer certification for one year prospectively for malfeasance in office. [Note: This took place in California where the false information to a police officer statute does not cover this situation.]

CASE NO. 9

DISHONESTY

Cadet I violated academy rules by bringing a cell phone into class. It made a noise when he turned it off and he falsely told the academy class that it had been a calculator. The phone did have a calculator function. The Board suspended eligibility to apply for certification for one year from the date of the board meeting.

CASE NO. 10

DISHONESTY AND SEX ON DUTY

Officer J falsified his daily activity reports over a two year period. He also engaged in sex with his wife on one occasion in a department office. The Board revoked his certification for malfeasance in office and conduct that diminishes public trust in the law enforcement profession.

CASE NO. 11

MISUSE OF WEAPON

Officer K was in emotional turmoil, having just returned from military duty in Iraq, being in financial difficulties and dealing with a disobedient daughter. He was so distraught that he was heading out the door to kill himself. As he walked by his home computer with his service weapon in hand, he saw the bounced checks displayed on the monitor and "lost it," firing one round into the monitor. He resigned his position with the police department. Following months of counseling, a physician sent a letter stating that Officer K was fit for duty and there were no issues that would affect his performance of all the duties of a peace officer. The Board suspended his certification for one year from the date he resigned for malfeasance in office. It is understood that there will be a new medical evaluation prior to any reactivation of certification.

CASE NO. 12

ASSAULT AND CIVIL RIGHTS VIOLATIONS

Applicant L was a non-certified tribal officer when he entered a private home without a warrant or exigent circumstances and attempted to execute a DUI arrest. This resulted in his use of unnecessary physical force. Less than a month later, he assaulted a handcuffed prisoner. The Board denied him certification for the commission of an offense involving physical violence and malfeasance in office. Denial is permanent.

CASE NO. 13

EXCESSIVE PRE-EMPLOYMENT MARIJUANA USE

Applicant M, a 46 year old former police officer from out of state, used marijuana somewhere between 50 and 200 times as a youth. The use was over twenty years ago. The Board denied him certification for marijuana use greater than experimentation.

CASE NO. 14

ILLEGAL DRUG USE

Deputy N's hair tested positive for cocaine in a random drug test. A second test was conducted which confirmed the results of the first. The deputy's county vehicle was searched and small quantities of cocaine and methamphetamine were seized. Despite Deputy N's fervent denials that he had ever used cocaine, his own independent test was also positive for cocaine. An Administrative Law Judge found he had indeed used cocaine and the Board revoked his certification.

CASE NO. 15**DISHONESTY**

Sergeant O was assigned to his home from 0800 to 1700 daily while he was on administrative leave. His supervisor called him on his cell phone around lunch time one day and asked where he was. He said he was at home. In fact, he was at a nearby store ordering a take-out lunch. Less than a minute later, Sergeant O called the supervisor back and reported the truth, disclosing all the relevant facts. The Board adopted a consent agreement calling for a three month suspension beginning from the date of termination from the agency.

CASE NO. 16**MALFEASANCE**

Officer P and his wife were engaged in an argument when she locked herself in the bedroom. He kicked open the bedroom door and observed her going through his duty bag. He grabbed her, forced her arms to her back and handcuffed her, leaving her on the bedroom floor for about 15 to 20 minutes. She was able to maneuver her hands to the front and dial 911. There was also evidence of pushing, wrestling and other physical contact. The Board revoked Officer P's certification for malfeasance in office.

CASE NO. 17**ALCOHOL ON DUTY**

Officer Q was scheduled to begin work at 1600 hours. At 1430 hours, his wife called the substation where he was to report to start his shift and left a message for him to call her at home as soon as possible. At 1630 hours, Officer Q called his supervisor and reported that his wife was out of town and their babysitter did not show up, so he was going to be late for work. At 1900, he arrived at work and was called into the sergeant's office to discuss the conflicting phone messages. The sergeant noticed signs of alcohol intoxication. A breath test showed .170 percent blood alcohol content and a blood draw, four hours later returned a .112 BAC reading. Officer Q did not appear or defend himself. The Board revoked his certification for being under the influence of alcohol on duty.

CASE NO. 18**FALSE INFO TO OBTAIN CERT**

Cadet R informed his fellow cadets that he beat the polygraph test and had passed it even though he lied when asked about cheating on his taxes. Following an investigation, his agency terminated his employment and the Board denied him certification for providing false information in connection with obtaining certified status.

CASE NO. 19**DISHONESTY**

Officer S lied to internal investigators after the Garrity admonitions when he denied that he had ever had sex with a particular known narcotics user who was on probation. He resigned from the agency and failed to respond to the POST Complaint. The Board revoked his certification for malfeasance in office.

CASE NO. 20**COMMITTING A FELONY**

Deputy T was the subject of a phone call from a pharmacist to his agency that raised issues of prescription medication abuse. The deputy had been injured on the job and had surgery and was being treated at a pain clinic. He had not informed his chain of command about the narcotics use as required by policy. Investigation revealed that he had obtained over 70 prescriptions in a little over a year, most of which were for narcotic pain medicines. He obtained some of the prescriptions by deceit about the medications he had been using and he obtained narcotics from several doctors who were unaware that others were also prescribing narcotics for him. He failed to respond to the POST complaint and the Board revoked his certification for the commission of a felony and an offense involving dishonesty.

Specialty Officer U was working at a port of entry where he sold permits to truckers entering the United States from Mexico. Over a four month period he overcharged between 20 and 50 truckers and kept the overage for his own use. The Board revoked his certification for theft.

On December 14, 2005, January 18, 2006 and February 15, 2006, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

Someone called the academy and reported that a cadet had used marijuana more than he reported on his application.

A recruit was insubordinate to academy staff by wearing a clip on tie after specific orders to wear a full necktie.

A deputy failed to report non-law enforcement off duty work as required by his agency policies.

An officer made on-duty contact with a female at her boyfriend's residence in order to initiate a possible relationship with her.

A recruit challenged academy staff to a fight the first day of the academy.

A sergeant failed to keep accurate records of his sick leave use.

An officer, while off duty and intoxicated, interjected himself into a situation by identifying himself as a peace officer (and telling a man to leave a woman alone) when no intervention was necessary.

A cadet spoke to others about field problems after being told not to.

Two officers ended their shifts and left work during the search for an escapee without writing a report.

An officer failed to instruct an expected number of "GREAT" classes at the schools for which she was responsible.

An officer advised a 14 year old female who had been caught having sex with her boyfriend that a better alternative would be to satisfy herself using her hand or a toy.

An officer refused to leave an off-duty job to take a report of a sexual assault that had occurred the day before.

An officer violated department policy by not taking a report of an incident involving an off-duty officer of another department.

An officer was involved in a one-vehicle accident while responding to a fight in progress call.

An officer failed to immediately identify the rightful owner and return \$100 that a fellow officer had given him to hold.

The Board adopted consent agreements calling for voluntary relinquishments or denials of certification where the following allegations had been made, but not proven.

An officer retaliated against his ex-wife by calling her employer and telling them she had a bad drug history, possible drug use and issues of theft. He denied this during the internal investigation.

A deputy falsified his time sheets by reporting work time when he had in fact taken sick or vacation leave.